

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----x
NATIVIDAD MARTINEZ HERNANDEZ, :
Plaintiff, :
:-----xv. :
:-----xWARWICK PROPERTIES INC.; MJJ :
BUILDERS CORP.; HEADER :
CONSTRUCTION, INC.; DEERFIELD :
COMMONS LIMITED PARTNERSHIP; :
ACCESS:SUPPORTS FOR LIVING, INC.; :
DEERFIELD COMMONS HOUSING :
DEVELOPMENT FUND COMPANY, INC.; :
and BUILDERS FIRSTSOURCE, INC., :
Defendants. :
:-----x

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ORDER

20 CV 1573 (VB)

On April 19, 2023, the Court issued an Order holding non-party Paulo Vidal in civil contempt for failing to comply with the Court's Order dated November 10, 2022 (Doc. #239), and the July 6, 2022, subpoena (Doc. #238-2 (the "Subpoena")). (Doc. #254). The April 19 Order stated the Court would likely order Mr. Vidal's arrest and confinement if he continued to fail to comply by June 23, 2023.

On April 28, 2023, plaintiff docketed an affidavit of service indicating the Court's April 19 Order was personally served on Mr. Vidal on April 25, 2023. (Doc. #256).

On May 22, 2023, the Court issued an Order subjecting Mr. Vidal to a monetary sanction of \$100.00 per day payable to the Court, which would continue to accrue until Mr. Vidal purged his contempt. (Doc. #258). The May 22 Order repeated that the Court would likely order Mr. Vidal's arrest and confinement in order to compel his compliance if he failed to comply by June 23, 2023.

On May 23, 2023, plaintiff docketed an affidavit of service indicating the Court's May 22 Order was served on Mr. Vidal on May 23 by first class mail, return receipt requested. (Doc. #259). On June 5, 2023, plaintiff docketed proof of a signed return receipt for the mailing to Mr. Vidal. (Doc. #262).

On June 23, 2023, plaintiff's counsel filed a letter indicating that, as of June 23 at 4:00 p.m., Vidal had yet to contact plaintiff's office. (Doc. #263). The Court fairly construes plaintiff's counsel's letter to inform the Court that Mr. Vidal has failed to comply with the Court's November 10, 2022, Order and the Subpoena, and thus that he has failed to purge his civil contempt by the June 23, 2023, deadline.

Accordingly, IT IS HEREBY ORDERED:

1. Non-party Paulo Vidal, having a last known address of 176 Ferry Street, Apt. 1, Newark, New Jersey 07105, shall be arrested and civilly committed.
2. The United States Marshal's Service (the "Marshal") shall (i) find and arrest Paulo Vidal pursuant to the Marshal's usual procedures; and (ii) transport him to the United States District Court for the Southern District of New York, Room 127, located at 300 Quarropas Street, White Plains, New York 10601, before 9:00 a.m. on July 12, 2023, so that plaintiff may obtain his deposition testimony at 9:00 a.m. on July 12, 2023.
3. The Marshal is directed to take all appropriate steps to ensure that this Order of arrest and civil commitment is executed. In particular, the Marshal shall use all reasonable force necessary to effect the arrest and shall make a forcible entry into Paulo Vidal's home if required.
4. The Marshal shall be present during Paulo Vidal's deposition to ensure his full compliance and attendance.
5. Plaintiff is directed to immediately notify the Court once Paulo Vidal's deposition is completed, at which time the Court will issue an Order directing the Marshal to release Mr. Vidal from custody.
6. By June 30, 2023, plaintiff shall serve a copy of this Order on Paulo Vidal and file proof of service on the ECF docket.

Dated: June 28, 2023
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge